

Division of Entomology & Plant Pathology, 402 W. Washington St. Rm 290W, Indianapolis, IN 46204, 317-232-4120

February 23, 2016

RE: PETITION TO THE IDNR FROM THE 2015-2016 THIRD GRADE STUDENTS AT THE ORCHARD SCHOOL

FROM: Philip T. Marshall, State Entomologist/Director, Division of Entomology & Plant Pathology

## BACKGROUND INFORMATION FOR THE PETITION

The following summarizes the communication between DNR & the Division of Entomology & Plant Pathology with the Orchard School 3<sup>rd</sup> grade class and Mr. Mylin.

### DECEMBER 17, 2015

Nate Mylin, STEM teacher at Orchard School in Indianapolis contacted Shelly Reeves in the executive office regarding his 3<sup>rd</sup> grade class submitting a petition for a rule against Purple Winter Creeper. Shelly assisted him with an email directing him to the Natural Resources Commission website which has directions on how to submit a petition.

### DECEMBER 21, 2015

Shelly emailed Megan Abraham and me, requesting we contact Mr. Mylin regarding the 3<sup>rd</sup> grade class petition for a rule to prohibit Purple winter Creeper and letters they would submit to Director Cameron Clark. Those letters were received by the executive office.

Following that email, I contacted Mr. Mylin on Dec 21 by phone. I listened to the request and informed him of the Terrestrial Invasive Plant rule that the Division of Entomology & Plant Pathology is developing from a request by the Indiana Invasive Species Council. I informed him that the species winter creeper, *Euonymus fortunei*, is included in the proposed rule, and by that species name, the variety Purple Winter Creeper would be included.

On that call, I offered to come to his school and speak with the 3<sup>rd</sup> grade class about invasive species, their petition and the rule making process.

### JANUARY 21, 2016

Megan Abraham and I went to Orchard School and spoke to the 3<sup>rd</sup> grade class. We reviewed the draft rule they developed and suggested a few wording changes. We also answered their questions about their rule and what can be done regarding violations and fines.

We also informed them of the draft Terrestrial Invasive Plant rule that is under development and that Winter Creeper and thus Purple Winter Creeper would be subject to this rule. We explained that all rules must have fiscal analysis and required forms completed and that we are in process of completing them. We indicated once they are completed a request is submitted to the governor's office for exception from the rule making moratorium. We indicated our plan was to complete them and obtain the governor's approval to proceed in time to place the proposed Terrestrial Plant rule on the Natural Resources Commission Agenda for the March meeting.

They asked about presenting their petition at the Natural Resources Commission meeting and I indicated that it is possible but up to the chair of the Natural Resources Commission to include it in the meeting agenda. We advised them that it would be a very brief time allotted on the agenda if approved and it would likely be one of the first

agenda items. We also suggested to limit the number of students attending and to only have one or two students speak to the petition. We encouraged the class to attend as this would be learning experience for them.

#### FEBRUARY 23, 2016

As of February 23, 2016, the fiscal analysis, required forms and exception request have not been completed. Thus the proposed Terrestrial Invasive Plant rule will not be on the March Natural Resources Commission agenda. The plan is to complete the above and ask for addition to the May agenda if the Governor's exception request is granted.

### COMMENTS ON PETITION TO THE IDNR FROM THE 2015-2016 THIRD GRADE STUDENTS AT THE ORCHARD SCHOOL

#### SECTION 1 OF PETITION

The petition makes *Euonymus fortunei* (winter creeper) and its cultivars (varieties) a 'prohibited' plant. The draft Terrestrial Invasive Plant rule does not make winter creeper a 'prohibited' plant. It is a 'restricted' plant.

The difference between 'prohibited' and 'restricted' is the following.

Prohibited – cannot possess the plant and must take effort to remove the plant from the property. Also cannot sell, barter, trade or move the plant.

Restricted – Cannot sell, barter, trade or move the plant. Not required to remove plant from the property.

Thus, students ask for a more stringent designation for winter creeper. The DNR rule uses 'restricted' because the impact to require removal is economically costly as the plant occurs across the state in small to large patches. The DNR rule intent is to remove it from trade and thus reduce future occurrence and spread of winter creeper. Therefore, we suggest the student petition be amended to 'restricted' to be in agreement with the DNR rule.

#### SECTIONS 'A' & 'B' OF PETITION

Section A agrees with the proposed DNR rule (c) (4) for 'prohibited' plants. Since we suggest changing to 'restricted', section A would be removed.

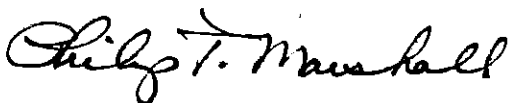
Section B agrees with the proposed DNR rule (e) (1) & (2) for 'prohibited' & 'restricted' plants.

#### SECTION 'C' OF PETITION

Fines are not stated in the proposed DNR rule as IC 14-24-11 addresses fines and penalties. Thus 'C' is not needed in the petition.

I thank the 3<sup>rd</sup> grade class and Mr. Mylin of the Orchard School on their work to investigate, understand and develop the rule against Purple Winter Creeper. Their work is in support of Invasive species management and the draft Terrestrial Invasive Plant rule.

Respectfully,



Philip T. Marshall

State Entomologist/Forest Health Specialist

Attachment: Proposed Terrestrial Invasive Plant rule in draft form.

**PETITION to the IDNR from the 2015-2016 Third Grade Students at The Orchard School**

**The Orchard School Third Grade Wintercreeper Rule**

- I. The following are prohibited invasive terrestrial plants and are declared pests or pathogens regulated under this section:

Euonymus Fortunei (wintercreeper) and any and all cultivars, such as purple wintercreeper

- A. Any property owner or business entity (such as a nursery or landscape company) who is known to have Euonymus Fortunei on the owner's property must take efforts to eliminate this species in such a manner as is consistent with federal and state law.
- B. A person or business entity (such as a nursery or landscape company) must not do the following with respect to Euonymus Fortunei:
- (1) Sell, possess, offer or grow for sale, gift, barter, exchange, plant it or distribute it.
  - (2) Transport or transfer it.
  - (3) Introduce a species of it.
- C. All persons or business entities who are found noncompliant with Sections A and B above will be subject to a fine or fines.